BEFORE

THE HON'BLE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.NO. 65 /2004

PETITIONERS

1. Anupkumar s/o Nelson James aged about 47 years.
2. Taminkumar alias Nalin aged about 43 years s/o Nelson James.
3. Rajesh aged about 40 years died on 10.12.03 Through : legal heirs :-
   (a) Sushama Rani James aged about 35 years Wd/o Rajesh James.
   (b) Dipti alias Nisha James aged about 13 years
   (c) Pratik James aged about 12 years .
   (d) Prasansha James aged about 11 years.
   Nos (b) to (d) minors through natural guardian mother Smt. Sushama James
4. Smt. Harshitlata w/o Nelson James aged about 75 years.

All residents of Jyotipur Pendra Road Distt. Bilaspur (C.G.) At present - Jarhabhata Bilaspur (C.G.).

P.R. No. 45/04 Presented by Shri V.K. Shukla dated 05.01.04

RECEIVED COPY 5.1.04 Clerk to A.G. Bilaspur

VERSUS

RESPONDENTS

1. G.R.Kadir s/o S.B.Kadir aged about 44 years R/o Talapara Bilaspur Tah.& Distt. Bilaspur (C.G.).
2. Shri Imanual s/o Nelson James (deged) Through his legal wife Ashalata aged about 53 years Jyotipur Pendra Road

(4)

Distt. Bilaspur (C.G.)

3. (a) Vijairaj Sailas.

(b) Premraj Sailas Advocate R/o Ghatia Azamullaha P.O. Agra (U.P.).

(c) Jairaj Sailas .

(d) Balajraj Anand Sailas. Nos. 3(a) to (d) S/o Larence Sailas.

(e) Shri L.B. Sailas s/o Robert Sailas R/o 10/4 428 Khalasi Line Ward M.S.A. Kanpur (U.P.).

4. Smt. Helan w/o David Singh aged about 70 years R/o Deepak Nagar Durg Distt. Durg (C.G.)

5. State of M.P. at present State of C.G. Through Collector Bilaspur (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

(14)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 65 सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15.04.2004

Shri R.K. Tiwari, counsel for the petitioner.

Shri Sanjay S. Agrawal, Panel Lawyer for the State.

Heard.

This petition has been filed under Article 227 of the Constitution of India against the order dated 20.09.2003 passed by the Vth Additional District Judge, Bilaspur in Civil Suit No.28-A/2001 whereby the application filed under Order 6 Rule 17 read with Section 151 of C.P.C. has been allowed. The suit was filed by Smt. Sunder Mani Kadir for declaration and partition. She died during the pendency of the suit. After her death, respondent No.1 G.R Khadir, who is son of the Smt. Sunder Mani Khadir has filed the application under Order 6 Rule 17 of C.P.C. Reply was filed by the petitioner. After hearing both the parties, the learned trial Court passed the order 20.09.2003 and allowed the amendment.

Having considered the facts and circumstances of the case and material on record and in view of the law laid down by the Apex Court in the case of Surya Dev Rai vs Ramachander Rai

[पीछे देखिये

XI-HC-22

(15)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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/Rao/	reported in AIR 2003 SC 3044 as well as in the case of Ranjit Singh vs Ravi Prakash reported in JT2004 (4) SC 127, in the opinion of this Court, there is no jurisdictional error warranting interference in the impugned order in exercise of its jurisdiction under Article 227 of the Constitution of India. The petition fails and is dismissed. However, the petitioner may raise the grounds in appeal in case any such eventuality arises. **Sd/-** **Fakhruddin** **Judge**	